

Bureau of Automotive Repair

INITIAL STATEMENT OF REASONS

Revised December 3, 2012

**HEARING DATE:**

**NORTHERN CALIFORNIA**

Monday, May 21, 2012 at 3:00 PM  
Department of Consumer Affairs  
Hearing Room  
1625 North Market Blvd  
Sacramento, CA 95834

**SUBJECT MATTER OF THE  
PROPOSED REGULATION:**

Brake Inspection and Repair Requirements

**SECTIONS AFFECTED:**

§ 3369 of Title 16, Division 33, Chapter 1, Article 11,  
California Code of Regulations

**SPECIFIC PURPOSE OF THE REGULATORY PROPOSAL:**

The Bureau of Automotive Repair (BAR) has determined through enforcement activities, mediation of consumer complaints, and information received from members of the automotive service industry, that there is a significantly uneven playing field in the area of brake inspections. The disparity between the quality of brake inspections impacts the industry and consumers. In some cases, Automotive Repair Dealers (ARD) will offer free brake checks as a means of attracting consumers into their shop with the intention of overselling costly parts to offset the free brake check. Typically, free brake checks do not provide consumers a comprehensive inspection of the vehicle's brake system components.

In order to address this problem, BAR developed a minimum standard for brake inspections that ARDs must follow when performing this service. This change will provide consumers additional protection against unscrupulous business practices.

BAR is proposing to adopt the following regulation<sup>1</sup>:

**BRAKE SERVICE INSPECTION REQUIREMENTS:** This proposed action creates minimum trade standards for the inspection of braking systems on passenger vehicles. These standards will help ensure consumers receive accurate information about the condition of their brake system and will assist consumers in making more informed decisions regarding what action to take for their brake pads, rotors, or drums.

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<sup>1</sup> Business and Professions Code § 9880.3, § 9882, § 9882.3, and § 9884.19 et seq.

The proposed action will make the following changes to existing regulation:

- **Add Section 3369 of Article 8 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations, as follows:**
  - a. Add subsection (a) to regulation text.

This section requires an ARD, when performing a brake inspection, to do the following:

1. Visually inspect all brakes on the vehicle;
2. Follow the current brake friction material and brake rotor or drum service standards, specifications, and procedures, as established by the vehicle manufacturer;
3. Provide, in writing, the numeric brake inspection results either on the invoice or on a separate document referenced on the invoice to the consumer;
4. Verify that the vehicle's parking brake operates in accordance with Vehicle Code section 26451.

**FACTUAL BASIS/RATIONAL:**

**BACKGROUND:**

The Bureau of Automotive Repair (BAR) was established within the California Department of Consumer Affairs (DCA) in 1971 with the enactment of the Automotive Repair Act<sup>2</sup>. BAR was created by Senate Bill (SB) 51 (Beilenson, Chapter 1578, Statutes of 1971), which mandated a statewide automotive repair consumer protection program. BAR is charged with protecting consumers in the automotive repair marketplace. BAR also protects honest dealers by working to ensure a level playing field by taking enforcement action against dishonest shops.

Through its statewide offices, BAR provides consumer protection services related to Title 16, Division 33, of the California Code of Regulations. BAR regulates Automotive Repair Dealers, Lamp and Brake stations and adjusters, and Smog Check stations and technicians. BAR receives and mediates complaints from the public, investigates violations of the Automotive Repair Act, Smog Check laws, and associated regulations. When appropriate, cases are referred to the Attorney General's Office or law enforcement authorities for administrative action, civil, and/or criminal prosecution.

In calendar year 2010, 723 or 4.4% of the complaints received by BAR were related to brake service and repairs. As a result of some of these complaints, BAR launched investigations into multiple companies who appear to use false and misleading advertising to lure customers into unnecessary repair services.

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<sup>2</sup> Business and Professions Code § 9880, et seq.

These investigations found that customers were often presented with cheap brake inspection specials and then charged hundreds of dollars for unnecessary repair services. BAR found that the shops did not intend to sell the advertised brake services and repairs at the advertised prices, but intended to entice customers into more costly transactions.

The BAR Enforcement Division has found that the overselling of services has become an increasing problem. On average, the shops charged BAR undercover agents almost \$300 in unnecessary brake rotor resurfacings, brake drum repairs, brake adjustments, brake-cleaning services, and other related services.

Due to concerns identified by trade organizations and the BAR Enforcement Division, BAR has deemed it necessary to establish minimum standards for ARDs that perform brake inspections<sup>3</sup>. Additionally, BAR has deemed it in the best interest of consumers to mandate written notification of brake friction material measurements to aid consumers in making informed decisions regarding potential vehicle braking system maintenance.

#### **UNDERLYING DATA:**

Technical, theoretical or empirical studies or reports relied upon:

Bureau of Automotive Repair Consumer Affairs System Report “*Calendar Year 2010 Complaints Received – Detail.*”

#### **BUSINESS IMPACT:**

This regulation will not have any adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The proposed regulation sets forth a minimum standard for automotive brake inspections and a mandate for providing consumers with written disclosure of numeric brake inspection results. Most ARDs currently meet or exceed the proposed standard. Nothing prevents an ARD from improving their brake inspections service to comply with this proposed regulation.

#### **ECONOMIC IMPACT ASSESSMENT:**

BAR has made an initial determination that the proposed regulatory action will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, the expansion of businesses, worker safety, or the state’s environment.

This regulation may improve the health and welfare of California residents. Consumers that receive improper brake inspections may choose to file a complaint against the ARD with BAR. The complaint process can be time consuming for consumers and BAR. The proposed action

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<sup>3</sup> Business and Professions Code § 9880.3, et seq.

may alleviate this burden and reduce the number of complaints filed with BAR. Thus, this proposal has the ability to save consumers valuable time and money.

#### **SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment.

This regulation sets minimum standards for brake inspections. Further, it does not require an ARD to purchase specific equipment or new equipment.

#### **CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be equally as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

Alternative 1: BAR considered taking no action. However, not developing minimum brake standards for the inspection of brake drums, rotors and pads could result in some ARDs deviating from industry best practices and potentially negatively impacting consumers and other ARDs. Further, BAR's mandate is to provide consumer protection and ensure a fair and competitive automotive repair marketplace.

Alternative 2: BAR considered setting standards that prescribed detailed tasks associated with a brake inspection. BAR rejected this option because it was too restrictive and could not account for changing parts, vehicle designs, and new industry standards.